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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2503

Introduced by Assembly Member Hagman

February 21, 2014

An act to amend Sections 7500.2, 7502.2, 7505.3, 7507.3, 7507.115, 7508.1, 7508.4, and 7508.5 of, and to amend and renumber Section 7505.2 of, the Business and Professions Code, to amend Section 41612 of the Government Code, and to amend Sections 28, 4000, ~~and 9561~~ 9561, ~~and 11705~~ of, and to add Section 10856 to, the Vehicle Code, relating to reposseors, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as amended, Hagman. Repossessors.

(1) Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services. A violation of the act is a crime.

This bill would *require a repossession agency to only transact business with a person or entity as an independent contractor, and would prohibit a licensed repossession agency from allowing any other person or entity to operate or transact business under the license of the*

repossession agency. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(2) Under existing law, a financial institution that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor.

This bill would expand the above crime to apply to a buy-here-pay-here dealer, as defined. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(3) Existing law allows a repossession business to continue on a license for 120 days when the qualified certificate holder actively in charge of the office ceases to be in charge because of the death of the licenseholder. Existing law requires a written notice to be made to the Bureau of Security and Investigative Services.

This bill would increase the period to 180 days and would require the written notice to identify the person in charge of running the day-to-day operations of the business.

(4) Existing law prohibits a reposessor from appraising the value of any collateral.

The bill would further prohibit the appraisal or determination of the value of any collateral, whether damaged or not. The bill would also prohibit a condition report that assesses the collateral from containing specified items or descriptions. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(5) Existing law authorizes the Director of Consumer Affairs to assess administrative fines for various prohibited acts, including using any identification to indicate registration as a reposessor, other than a registration card issued by the Bureau of Security and Investigative Services, except an employer identification card issued by the repossession agency which has bureau approval. Existing law allows an employee of a repossession agency to wear a badge, cap insignia, or jacket patch meeting specified requirements.

This bill would except a badge, cap insignia, or jacket patch from the prohibition on using any identification to indicate registration as a reposessor.

(6) Existing law authorizes the Director of Consumer Affairs to assess an administrative fine for the failure to present a debtor with an itemized receipt of payment, if payment is made in lieu of repossession.

This bill would delete this provision.

(7) Existing law requires that when possession is taken of a vehicle by or on behalf of a legal owner under the terms of a security or lease

agreement, the debtor pay the police or parking authority a specified fee. Existing law prohibits the release of the vehicle to the debtor until the debtor provides proof of payment or pays the fee and an administrative fee to the person in possession or the legal owner. Existing law also provides for a fine if the fee is not transmitted to the police or parking authority. Existing law requires proof of payment to be retained by the party releasing possession to the debtor.

This bill would delete the provisions that allow the release of a vehicle to a debtor who pays the fee and an administrative fee to the person in possession or the legal owner. The bill would make other conforming changes to this provision.

(8) Existing law requires the person taking possession of a vehicle whenever possession is taken by or on behalf of any legal owner under the terms of a security agreement or lease agreement to notify local law enforcement within one hour of the repossession, as specified. Violation of these provisions is a crime.

This bill would require the reposessor to ~~attempt notification~~ *contact law enforcement* within one hour, ~~and to accomplish notification within 2 hours~~ *hour* of the repossession, ~~and would specify information that would be required to be provided in the notification.~~ *notification, and, if notification cannot be completed, require the person to continue to attempt contact until the required information is provided.*

By expanding the provisions of existing law, the violation of which is a crime, this bill would impose a state-mandated local program.

(9) Existing law prohibits a person from driving, moving, or leaving standing upon a highway or offstreet public parking facility any motor vehicle or other specified vehicle, unless it is registered and the appropriate fees have been paid. Existing law provides that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the reposessor, and from the storage facilities to the legal owner or a licensed motor vehicle auction, provided that the reposessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

This bill would additionally exempt a licensed reposessor *who has obtained a release of collateral* from registration solely for the purpose of obtaining a release ~~or of the collateral~~ from a law enforcement agency, impounding authority, tow yard, storage facility, or any other person or ~~company~~ *entity* that has possession of the vehicle, as specified.

(10) Existing law allows the legal owner or the legal owner's agent to obtain the release of a vehicle, after the vehicle has been removed and seized by a peace officer, as specified, from the impounding agency, by presenting specified documents. Existing law prohibits a city, county, city and county, or state agency from imposing a charge on a legal owner for administrative costs in connection with the release of properly impounded vehicle. Existing law allows a legal owner of a vehicle, or the legal owner's agent, to obtain release of the vehicle from an impounding law enforcement agency, without payment of any fees, fines, or penalties for parking tickets or registration and without proof of current registration, if the vehicle will only be transported pursuant to a specified exemption, and the legal owner pays the cost of towing and storing the vehicle, and completes an affidavit, as specified.

This bill would apply those provisions to a licensed reposessor seeking to obtain a release of collateral from a law enforcement agency, impounding authority, tow yard, storage facility, or any other person or entity in possession of the collateral. The bill would require a legal owner of collateral to hold those persons or entities harmless from liability if collateral is released in compliance with the bill's provisions.

~~(10)~~

(11) Existing law provides that if the legal owner, or his or her agent, repossesses a vehicle on which registration renewal fees are due, the Department of Motor Vehicles is to waive any renewal penalties that are due for late payment if the fees are paid within 60 days of taking possession.

This bill would apply those provisions to a repossession by a reposessor.

~~(11)~~

(12) Existing law establishes offenses for, among other things, willfully tampering or injuring a vehicle or its contents, as specified.

This bill would prohibit a person from interfering with the transport of a vehicle or other collateral to a storage facility, auction, or dealer by an individual who is employed by a repossession agency or is licensed as a repossession agency once repossession is complete, as provided. Violation of these provisions would be an infraction pursuant to other provisions of law.

By creating a new crime, this bill would impose a state-mandated local program.

~~(12)~~

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(13)~~

(14) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7500.2 of the Business and Professions
2 Code is amended to read:

3 7500.2. (a) A repossession agency means and includes any
4 person who, for any consideration whatsoever, engages in business
5 or accepts employment to locate or recover collateral, whether
6 voluntarily or involuntarily, including, but not limited to, collateral
7 registered under the provisions of the Vehicle Code which is
8 subject to a security agreement, except for any person registered
9 pursuant to Article 7 (commencing with Section 7506).

10 (b) A repossession agency licensed pursuant to this chapter shall
11 *only transact business with another person or entity as an*
12 *independent contractor and shall* not allow any other person or
13 entity to operate or transact business under the license of the
14 repossession agency.

15 SEC. 2. Section 7502.2 of the Business and Professions Code
16 is amended to read:

17 7502.2. (a) A financial institution or a buy-here-pay-here
18 dealer, as defined by Section 241 of the Vehicle Code, that
19 knowingly engages a nonexempt unlicensed person to repossess
20 collateral on its behalf is guilty of a misdemeanor, and is punishable
21 by a fine of five thousand dollars (\$5,000).

22 (b) Within existing resources, the Commissioner of Business
23 Oversight may designate employees to investigate and report on
24 violations of this section by any of the licensees of the department.
25 Those employees are authorized to actively cooperate with the
26 bureau in the investigation of those activities.

(c) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

SEC. 3. Section 7505.2 of the Business and Professions Code is amended and renumbered to read:

7507.125. Nothing in this chapter prohibits the using or taking of personal effects that are connected, adjoined, or affixed to the collateral through an unbroken sequence, if that use or taking is reasonably necessary to effectuate the recovery in a safe manner or to protect the collateral or personal effects. Nothing in this chapter prohibits the removal of a locking mechanism or security device on the collateral, before, during, or after a repossession. No storage fee shall be charged for the first week on any personal effects used to effectuate a recovery pursuant to this section. Any personal effects used or taken pursuant to this section shall be processed in a reasonably expedient manner pursuant to Sections 7507.9 and 7507.10.

SEC. 4. Section 7505.3 of the Business and Professions Code is amended to read:

7505.3. (a) Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the bureau notice, in writing, within 30 days from the cessation.

If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the director, if written notice is not given that a qualified person

1 is then actively in charge of the office, the agency license shall be
2 automatically suspended.

3 If the licensee shall fail to give written notice at the end of the
4 30-day period, the agency license shall be automatically suspended.

5 A license suspended under this section may be reinstated upon
6 payment of the reinstatement fee and submission of a reinstatement
7 application.

8 A person who performs any act for which a repossession agency
9 license is required during the period of suspension is subject to
10 the penal provisions of Article 3 (commencing with Section 7502),
11 in addition to the provisions of Article 9 (commencing with Section
12 7508) and Article 10 (commencing with Section 7510).

13 (b) In case of the death of a person licensed as an individual, a
14 member of the immediate family of the deceased licensee shall be
15 entitled to continue the business under the same license for 180
16 days following the death of the licensee, provided that written
17 notice is made to the bureau within 30 days following the death
18 of the licensee. The notice shall identify the person in charge of
19 running the day-to-day operations of the business. At the end of
20 the 180-day period, the license shall be automatically canceled. If
21 no request is received within the 30-day period, the license shall
22 be automatically canceled at the end of that period.

23 (c) In the case of the death or disassociation of a partner of an
24 entity licensed as a partnership, the licensee shall notify the bureau,
25 in writing, within 30 days from the death or disassociation of the
26 individual. If notice is given, the license shall remain in force for
27 90 days following the death or disassociation. At the end of that
28 period, the license shall be automatically canceled. If the licensee
29 fails to notify the bureau within the 30-day period, the license shall
30 be automatically canceled at the end of that period.

31 (d) A license extended under this section is subject to all other
32 provisions of this chapter.

33 SEC. 5. Section 7507.3 of the Business and Professions Code
34 is amended to read:

35 7507.3. A repossession agency shall be required to keep and
36 maintain adequate records of all transactions, including, but not
37 limited to, assignment forms; vehicle report of repossession
38 required by Section 28 of the Vehicle Code; vehicle condition
39 reports, including odometer readings, if available; personal effects
40 inventory; and notice of seizure. Records shall be retained for a

1 period of not less than four years and shall be available for
2 examination by the bureau upon demand. In addition, collateral
3 and personal effects storage areas shall be made accessible for
4 inspection by the bureau upon demand. An assignment form may
5 be an original, a photocopy, a facsimile copy, or a copy stored in
6 an electronic format.

7 SEC. 6. Section 7507.115 of the Business and Professions
8 Code is amended to read:

9 7507.115. (a) A licensee shall not appraise or determine the
10 value of any collateral, whether damaged or not.

11 (b) (1) Notwithstanding subdivision (a), a licensee may ~~issue~~
12 *complete* a condition report that makes a general assessment of
13 the collateral.

14 (2) Notwithstanding paragraph (1), a condition report shall not
15 contain any of the following:

16 (A) A description of the wear and tear of specific parts.

17 (B) A description of the presence or absence of specific parts.

18 (C) The condition of the paint on the collateral.

19 (D) The electrical or mechanical condition.

20 (E) How the collateral drives or operates.

21 (F) The type of key used for the collateral.

22 SEC. 7. Section 7508.1 of the Business and Professions Code
23 is amended to read:

24 7508.1. The director may assess administrative fines for the
25 following prohibited acts:

26 (a) Knowingly making any false report to his or her employer
27 or client for whom information was being obtained. The fine shall
28 be one hundred dollars (\$100) for the first violation, and five
29 hundred dollars (\$500) for each violation thereafter.

30 (b) Using any identification to indicate registration as a
31 reposessor, other than the bureau-issued registration card, except
32 an employer identification card issued by the repossession agency
33 which has met bureau approval, or a badge, cap insignia, or jacket
34 patch as provided in Section 7508.8. A bureau-issued registration
35 card shall be carried by those individuals specified by Section
36 7506.3, and shall be shown on demand to any bureau employee
37 or law enforcement officer. The fine shall be twenty-five dollars
38 (\$25) for each violation.

39 (c) Using an alias in connection with the official activities of
40 the licensee's business. A notice of warning shall be issued for the

1 first violation. Thereafter the fine shall be twenty-five dollars (\$25)
2 for each violation.

3 (d) Appearing as an assignee party in any court proceeding
4 involving claim and delivery, replevin, or other possessory court
5 action, action to foreclose a chattel mortgage, mechanic's lien,
6 materialman's lien, or any other lien. This section shall not prohibit
7 a licensee from appearing as a defendant in any of the preceding
8 actions. The fine shall be one hundred dollars (\$100) for each
9 violation.

10 SEC. 8. Section 7508.4 of the Business and Professions Code
11 is amended to read:

12 7508.4. The director may assess administrative fines for any
13 of the following prohibited acts:

14 (a) Conducting business from any location other than that
15 location to which a license was issued or conducting a business as
16 an individual, partnership, limited liability company, or corporation
17 unless the licensee holds a valid license issued to that exact same
18 individual, partnership, limited liability company, or corporation.
19 The fine shall be one thousand dollars (\$1,000) for each violation.

20 (b) Aiding or abetting an unlicensed reposessor or assigning
21 his or her license. "Assigning his or her license" means that no
22 licensee shall permit a registrant, employee, or agent in his or her
23 own name to advertise, engage clients, furnish reports, or present
24 bills to clients, or in any manner whatsoever to conduct business
25 for which a license is required under this chapter. The fine shall
26 be one thousand dollars (\$1,000) for each violation.

27 (c) Failing to register registrants within 15 days. The fine shall
28 be two hundred fifty dollars (\$250) for each of the first two
29 violations and one thousand dollars (\$1,000) for each violation
30 thereafter.

31 (d) Employing a person whose registration has expired or been
32 revoked, denied, suspended, or canceled, if the bureau has furnished
33 a listing of these persons to the licensee. The fine shall be
34 twenty-five dollars (\$25) for each violation.

35 (e) Failing to notify the bureau, within 30 days, of any change
36 in officers. A notice of warning shall be issued for the first
37 violation. Thereafter, the fine shall be twenty-five dollars (\$25)
38 for each violation.

39 (f) Failing to submit the notices regarding a violent act or
40 threatened violent act within seven days pursuant to Section 7507.6

1 or to submit a copy of a judgment awarded against the licensee
2 for an amount of more than the then prevailing maximum claim
3 that may be brought in small claims court within seven days
4 pursuant to Section 7507.7. The fine shall be twenty-five dollars
5 (\$25) for the first violation and one hundred dollars (\$100) per
6 violation thereafter.

7 (g) Failing to include the licensee's name, address, and license
8 number in any advertisement. A notice of warning shall be issued
9 for the first violation. Thereafter, the fine shall be twenty-five
10 dollars (\$25) for each violation.

11 (h) Failing to maintain personal effects for at least 60 days. The
12 fine shall be twenty-five dollars (\$25) for the first violation and
13 one hundred dollars (\$100) for each violation thereafter.

14 (i) Failing to provide a personal effects list or a notice of seizure
15 within the time limits set forth in Section 7507.9 or 7507.10. The
16 fine shall be twenty-five dollars (\$25) for the first violation and
17 one hundred dollars (\$100) for each violation thereafter.

18 (j) Failing to file the required report pursuant to Section 28 of
19 the Vehicle Code. The fine shall be twenty-five dollars (\$25) for
20 each of the first five violations and one hundred dollars (\$100) for
21 each violation thereafter, per audit.

22 (k) Failing to maintain an accurate record and accounting of
23 secure temporary registration forms. The qualified certificate holder
24 shall be fined twenty-five dollars (\$25) for the first violation, one
25 hundred dollars (\$100) for the second violation, two hundred fifty
26 dollars (\$250) for the third violation, and two hundred fifty dollars
27 (\$250) plus a one-year suspension of the privilege to issue
28 temporary registrations pursuant to Section 7506.9 for the fourth
29 and subsequent violations.

30 (l) Representing that a licensee has an office and conducts
31 business at a specific address when that is not the case. The fine
32 shall be five thousand dollars (\$5,000) for each violation.

33 (m) Notwithstanding any other provision of law, the money in
34 the Private Security Services Fund that is attributable to
35 administrative fines imposed pursuant to subdivision (c) shall not
36 be continuously appropriated and shall be available for expenditure
37 only upon appropriation by the Legislature.

38 SEC. 9. Section 7508.5 of the Business and Professions Code
39 is amended to read:

7508.5. The director may assess administrative fines against a repossession agency registrant for the following acts, in addition to fines imposed pursuant to any other section in this article. The fine shall be twenty-five dollars (\$25) for each of the following violations:

- (a) Knowingly submit a false report.
- (b) Submitting a report to a client without authorization by his or her employer.
- (c) Failing to carry a bureau-issued identification card and failing to show that card upon demand to a bureau employee or a law enforcement officer.
- (d) Failing to register.
- (e) Failing to return his or her registration card to the employer upon termination.
- (f) Failing to report a violent act involving the registrant to the licensee or the licensee's qualified certificate holder within 24 hours.

SEC. 10. Section 41612 of the Government Code is amended to read:

41612. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the chief of police or a parking authority operated by a city and county a fee of fifteen dollars (\$15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the chief of police or parking authority. The proof of payment, or a copy thereof, shall be retained by the party releasing possession to the debtor for the period required by law. An individual working for a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code ~~may~~ *shall* not pay the fee to, or retrieve the receipt from, the chief of police or parking authority.

SEC. 11. Section 28 of the Vehicle Code is amended to read:

28. (a) Whenever possession is taken of any vehicle by or on behalf of ~~any its~~ legal owner ~~thereof~~ under the terms of a security agreement or lease agreement, the person taking possession shall ~~attempt to notify, contact, for the purpose of providing the information required pursuant to subdivision (d)~~ within one hour,

1 ~~and shall notify, within two hours,~~ after taking possession of the
2 vehicle, by the most expeditious means available, the city police
3 department where the taking of possession occurred, if within an
4 incorporated city, or the sheriff's department of the county where
5 the taking of possession occurred, if outside an incorporated city,
6 or the police department of a campus of the University of California
7 or the California State University, if the taking of possession
8 occurred on that campus, and shall within one business day forward
9 a written notice to the city police or sheriff's department. *If*
10 *notification cannot be completed, the person taking possession of*
11 *the vehicle shall continue to attempt contact until the information*
12 *required pursuant to subdivision (d) is provided.*

13 (b) If possession is taken of more than one vehicle, the
14 possession of each vehicle shall be considered and reported as a
15 separate event.

16 (c) Any person failing to notify the city police department,
17 sheriff's department, or campus police department as required by
18 this section is guilty of an infraction, and shall be fined a minimum
19 of three hundred dollars (\$300), and up to five hundred dollars
20 (\$500). The district attorney, city attorney, or city prosecutor shall
21 promptly notify the Bureau of Security and Investigative Services
22 of any conviction resulting from a violation of this section.

23 (d) For the notification required by this section, the person shall
24 report only the following information and in the following order:

- 25 (1) The approximate location of the repossession.
- 26 (2) The date and approximate time of the repossession.
- 27 (3) The vehicle year, make, and model.
- 28 (4) The last six digits of the vehicle identification number.
- 29 (5) The registered owner as provided on the repossession
30 assignment.
- 31 (6) The legal owner requesting the repossession as provided on
32 the repossession assignment.
- 33 (7) The name of the repossession agency.
- 34 (8) The telephone number of the repossession agency.

35 SEC. 12. Section 4000 of the Vehicle Code is amended to read:

36 4000. (a) (1) A person shall not drive, move, or leave standing
37 upon a highway, or in an offstreet public parking facility, any
38 motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging
39 dolly, unless it is registered and the appropriate fees have been
40 paid under this code or registered under the permanent trailer

1 identification program, except that an off-highway motor vehicle
2 which displays an identification plate or device issued by the
3 department pursuant to Section 38010 may be driven, moved, or
4 left standing in an offstreet public parking facility without being
5 registered or paying registration fees.

6 (2) For purposes of this subdivision, “offstreet public parking
7 facility” means either of the following:

8 (A) Any publicly owned parking facility.

9 (B) Any privately owned parking facility for which no fee for
10 the privilege to park is charged and which is held open for the
11 common public use of retail customers.

12 (3) This subdivision does not apply to any motor vehicle stored
13 in a privately owned offstreet parking facility by, or with the
14 express permission of, the owner of the privately owned offstreet
15 parking facility.

16 (4) Beginning July 1, 2011, the enforcement of paragraph (1)
17 shall commence on the first day of the second month following
18 the month of expiration of the vehicle’s registration. This paragraph
19 shall become inoperative on January 1, 2012.

20 (b) No person shall drive, move, or leave standing upon a
21 highway any motor vehicle, as defined in Chapter 2 (commencing
22 with Section 39010) of Part 1 of Division 26 of the Health and
23 Safety Code, ~~which~~ *that* has been registered in violation of Part 5
24 (commencing with Section 43000) of Division 26 of the Health
25 and Safety Code.

26 (c) Subdivisions (a) and (b) do not apply to off-highway motor
27 vehicles operated pursuant to Sections 38025 and 38026.5.

28 (d) This section does not apply, following payment of fees due
29 for registration, during the time that registration and transfer is
30 being withheld by the department pending the investigation of any
31 use tax due under the Revenue and Taxation Code.

32 (e) Subdivision (a) does not apply to a vehicle that is towed by
33 a tow truck on the order of a sheriff, marshal, or other official
34 acting pursuant to a court order or on the order of a peace officer
35 acting pursuant to this code.

36 (f) Subdivision (a) applies to a vehicle that is towed from a
37 highway or offstreet parking facility under the direction of a
38 highway service organization when that organization is providing
39 emergency roadside assistance to that vehicle. However, the
40 operator of a tow truck providing that assistance to that vehicle is

1 not responsible for the violation of subdivision (a) with respect to
2 that vehicle. The owner of an unregistered vehicle that is disabled
3 and located on private property, shall obtain a permit from the
4 department pursuant to Section 4003 prior to having the vehicle
5 towed on the highway.

6 (g) (1) A licensed reposessor *who has obtained a release of*
7 *collateral* is exempt from this section solely for the purpose of
8 obtaining ~~a the collateral pursuant to that~~ release from a law
9 enforcement agency, impounding authority, tow yard, storage
10 facility, or any other person or ~~company that has~~ entity in
11 possession of the collateral.

12 (2) A licensed reposessor is exempt from this section solely
13 for the purpose of obtaining collateral from a law enforcement
14 agency, impounding authority, tow yard, storage facility, or any
15 other person or company that has possession of the collateral.

16 (3) In order to obtain a release of the collateral from a law
17 enforcement agency, impounding authority, tow yard, storage
18 facility, or any other person or company pursuant to paragraph (1)
19 or (2), a licensed reposessor shall only be required to present his
20 or her reposessor license and a copy of the reposessor assignment
21 to that entity or person.

22 (4) *For purposes of paragraph (1), paragraphs (3) and (4) of*
23 *subdivision (f) of Section 14602.6, and subparagraph (B) of*
24 *paragraph (3) of subdivision (o) of Section 22651 apply.*

25 (5) *The legal owner of collateral shall, by operation of law and*
26 *without requiring further action, indemnify and hold harmless a*
27 *law enforcement agency, city, county, city and county, the state,*
28 *a tow yard, storage facility, or an impounding yard from a claim*
29 *arising out of the release of the collateral to a licensee, and from*
30 *any damage to the collateral after its release, including reasonable*
31 *attorney's fees and costs associated with defending a claim, if the*
32 *collateral was released in compliance with this subdivision.*

33 (h) For purposes of this section, possession of a California
34 driver's license by the registered owner of a vehicle shall give rise
35 to a rebuttable presumption that the owner is a resident of
36 California.

37 SEC. 13. Section 9561 of the Vehicle Code is amended to read:

38 9561. (a) When a legal owner, his or her agent, or a reposessor
39 who is licensed pursuant to Chapter 11 (commencing with Section
40 7500) of Division 3 of the Business and Professions Code

1 repossesses a vehicle on which renewal fees are due, the department
2 shall waive any renewal penalties that are due for late payment if
3 the fees are paid within 60 days of taking possession.

4 (b) Notwithstanding any other provisions of this code, when a
5 repossessed vehicle is sold through a dealer conducting a wholesale
6 motor vehicle auction as provided in subdivision (b) of Section
7 4456 and Article 5 (commencing with Section 6100) of Chapter
8 2 of Division 3, any penalties that may be due are waived, if all
9 renewal fees that are due are paid not later than 60 days after the
10 date of sale at the auction.

11 SEC. 14. Section 10856 is added to the Vehicle Code, to read:

12 10856. (a) A person shall not interfere with the transport of a
13 vehicle to a storage facility, auction, or dealer by an individual
14 who is employed by a repossession agency *or* who is licensed
15 pursuant to Chapter 11 (commencing with Section 7500) of
16 Division 3 of the Business and Professions Code once repossession
17 is complete as provided in Section 7507.12 of the Business and
18 Professions Code.

19 (b) Any tow yard, impounding agency, or governmental agency,
20 or any person acting on behalf of those entities, shall not refuse to
21 release a vehicle *or other collateral* to anyone that is legally
22 entitled to that vehicle *or other collateral*.

23 SEC. 15. *Section 11705 of the Vehicle Code is amended to*
24 *read:*

25 11705. (a) The department, after notice and hearing, may
26 suspend or revoke the license issued to a dealer, transporter,
27 manufacturer, manufacturer branch, remanufacturer,
28 remanufacturer branch, distributor, or distributor branch upon
29 determining that the person to whom the license was issued is not
30 lawfully entitled thereto, or has done any of the following:

31 (1) Filed an application for the license using a false or fictitious
32 name not registered with the proper authorities, or knowingly made
33 a false statement or knowingly concealed a material fact, in the
34 application for the license.

35 (2) Made, or knowingly or negligently permitted, an illegal use
36 of the special plates issued to the licensee.

37 (3) Used a false or fictitious name, knowingly made a false
38 statement, or knowingly concealed a material fact, in an application
39 for the registration of a vehicle, or otherwise committed a fraud
40 in the application.

1 (4) Failed to deliver to a transferee lawfully entitled thereto a
2 properly endorsed certificate of ownership.

3 (5) Knowingly purchased, sold, or otherwise acquired or
4 disposed of a stolen motor vehicle.

5 (6) Failed to provide and maintain a clear physical division
6 between the type of business licensed pursuant to this chapter and
7 any other type of business conducted at the established place of
8 business.

9 (7) Willfully violated Section 3064 or 3065 or any rule or
10 regulation adopted pursuant thereto.

11 (8) Violated any provision of Division 3 (commencing with
12 Section 4000) or any rule or regulation adopted pursuant thereto,
13 or subdivision (a) of Section 38200.

14 (9) Violated any provision of Division 4 (commencing with
15 Section 10500) or any rule or regulation adopted pursuant thereto.

16 (10) Violated any provision of Article 1 (commencing with
17 Section 11700) of Chapter 4 of Division 5 or any rule or regulation
18 adopted pursuant thereto.

19 (11) Violated any provision of Part 5 (commencing with Section
20 10701) of Division 2 of the Revenue and Taxation Code or any
21 rule or regulation adopted pursuant thereto.

22 (12) Violated any provision of Chapter 3332b (commencing
23 with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil
24 Code or any rule or regulation adopted pursuant thereto.

25 (13) Submitted a check, draft, or money order to the department
26 for any obligation or fee due the state which was dishonored or
27 refused payment upon presentation.

28 (14) Has caused any person to suffer any loss or damage by
29 reason of any fraud or deceit practiced on that person or fraudulent
30 representations made to that person in the course of the licensed
31 activity.

32 For purposes of this paragraph, “fraud” includes any act or
33 omission which is included within the definition of either “actual
34 fraud” or “constructive fraud” as defined in Sections 1572 and
35 1573 of the Civil Code, and “deceit” has the same meaning as
36 defined in Section 1710 of the Civil Code. In addition, “fraud”
37 and “deceit” include, but are not limited to, a misrepresentation in
38 any manner, whether intentionally false or due to gross negligence,
39 of a material fact; a promise or representation not made honestly

1 and in good faith; an intentional failure to disclose a material fact;
2 and any act within Section 484 of the Penal Code.

3 For purposes of this paragraph, “person” also includes a
4 governmental entity.

5 (15) Failed to meet the terms and conditions of an agreement
6 entered into pursuant to Section 11707.

7 (16) Violated Section 43151, 43152, or 43153 of, or subdivision
8 (b) of Section 44072.10 of, the Health and Safety Code.

9 (17) Failed to repay a claim paid by the Consumer Motor
10 Vehicle Recovery Corporation as provided in subdivision (i) of
11 Section 11703.

12 *(18) Violated any provision of Chapter 11 (commencing with*
13 *Section 7500) of Divisions 3 of the Business and Professions Code*
14 *or any rule or regulation adopted pursuant to those provisions.*

15 (b) Any of the causes specified in this chapter as a cause for
16 refusal to issue a license to a transporter, manufacturer,
17 manufacturer branch, remanufacturer, remanufacturer branch,
18 distributor, distributor branch, or dealer applicant is cause to
19 suspend or revoke a license issued to a transporter, manufacturer,
20 manufacturer branch, remanufacturer, remanufacturer branch,
21 distributor, distributor branch, or dealer.

22 (c) Except as provided in Section 11707, every hearing provided
23 for in this section shall be conducted pursuant to Chapter 5
24 (commencing with Section 11500) of Part 1 of Division 3 of Title
25 2 of the Government Code.

26 ~~SEC. 15.~~

27 *SEC. 16.* No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 ~~SEC. 16.~~

37 *SEC. 17.* This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 In order to preserve public peace by prohibiting a person from
2 interfering with the transport of a vehicle to a storage facility,
3 auction, or dealer by a reposessor, it is necessary that this act take
4 effect immediately.

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